



**Executive Summary**  
**75<sup>th</sup> Liberation Day Carnival Games of Chance**  
**OPA Report No. 20-02, March 2020**

Our audit of the 75<sup>th</sup> Liberation Day Carnival Games of Chance found that gaming operations, under the oversight of the Department of Revenue and Taxation (DRT), generally complied with the governing laws, rules, and regulations. However, we identified some deficiencies in DRT's oversight functions and certain operational violations with Public Law (P.L.) 35-10 and tax law. Specifically, we identified: (1) DRT personnel lacked the expertise in game room operations; (2) backup withholding on gambling winnings was not conducted placing heavy reliance on winners to self-report to DRT on their income tax filings; (3) gaming operators permitted the use of cash to be used during games which was a violation of P.L. 35-10; and (4) concerns for the personal safety of DRT employees assigned to provide oversight over gaming activities.

We also identified total collections from the 75<sup>th</sup> Liberation Day Carnival gaming activities amounted to \$414 thousand (K), of which \$398K was from the vendor fees, \$15K from business privilege and other taxes, and \$1K from license fees. The revenues forecasted in P.L. 35-10 for vendor fees was \$580K.

Lastly, we also identified Guam lacks a Gaming Control Commission (Commission) for gaming activities. Previous public laws called for the establishment of such a Commission to be empaneled with the main responsibility of administering gaming regulations and developing license fees and tax rates to be assessed to the various forms of allowable gaming. Without an empaneled Commission, gaming activities go unregulated and unchecked.

**DRT's Lack of Expertise in Game Room Operations**

During the 75<sup>th</sup> Liberation Day Carnival, DRT assigned two employees each night to be present on the carnival grounds to oversee and regulate gaming activities. DRT assigned employees from their Regulatory Division and Tax Enforcement Division; however, they admitted they lacked the expertise and experience in game room operations. DRT personnel did not receive training prior to their oversight assignment and were not familiar with the rules of the games or identifying questionable or suspicious activity. Due to their lack of expertise, DRT personnel resorted to watching YouTube videos to gain a better understanding of the games they were overseeing.

**No Backup Withholding on Gambling Winnings**

Gaming entities are required to issue Form W-2G to gambling winners each year. Gambling winners, in turn, are required to report all gambling winnings, including winnings not subject to withholding tax, on their annual Income Tax forms. We learned that gaming operators did not conduct backup withholding on any gaming winnings that were taxable at the time of payouts during the Liberation Day activities. Similar to the Internal Revenue Service, DRT relies on taxpayers to voluntarily disclose their gaming winnings. DRT does not have a mechanism in place to systematically match the income from the gaming entities' W-2G or Form 1099 with the individual income tax return.

### **Violation on the Use of Cash**

We identified that DRT issued a Notice of Violation to one of the gaming vendors in June 2019. The incident occurred when DRT personnel changed shifts and the incoming employee observed cash and chips on the card table. The gaming employee allowed play to continue. When the player passed cash across the table to the gaming employee to exchange for chips, this was a direct violation of P.L. 35-10, which prohibited currency other than official chips to be used during the conduct of games. DRT halted the game and issued a Notice of Violation. No monetary fine was imposed as the gaming rules and regulations did not have a penalty.

### **DRT's Concerns Over Personal Safety**

DRT expressed concerns over their personal safety during their oversight of the gaming activities. They noted the intimidating atmosphere and potentially dangerous environment surrounding the location of the Liberation Day Carnival Games of Chance game room. Although there was a daily presence of plain-clothed security personnel and uniformed officers in the area, DRT personnel were still concerned for their personal safety.

### **Conclusion and Recommendations**

DRT generally complied with the oversight of the 75<sup>th</sup> Liberation Day Carnival Games of Chance, with some deficiencies noted. To address these deficiencies and pending the decision on court cases and litigations regarding the legality of gaming in Guam and if gaming is to continue at the Liberation Day Carnival, we recommend DRT to:

- Request additional funding to address the issue of personnel expertise and technology and properly regulate the gaming industry.
- Provide proper and adequate training to DRT personnel assigned to oversee the game room operations.
- Implement exclusion or ejection of disreputable personalities from the gaming activities.
- Dedicate staff resources to enforce on-site tax withholding on taxable gambling winnings.
- Empanel the Gaming Control Commission in compliance with Section 6 of P.L. 32-60.

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